

*CLAIM AMENDMENTS*

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1. (Previously Presented) A method for custom blending and fabricating a lipstick at a retail establishment to personal specifications of a person, the method comprising:

receiving a customer demand from the person for a custom blended lipstick at the retail establishment;

mixing selected quantities of a plurality of selected pigments in accordance with the customer demand to arrive at a pigment mixture;

softening at least one lipstick base via heat such that the lipstick base is suitable for mixing with pigments;

mixing the pigment mixture with the at least one lipstick base to arrive at a base-pigment mixture; thereafter

applying the base-pigment mixture to lips of the person for evaluation; thereafter

heating the base-pigment mixture; and

cooling the base pigment mixture in a mold.

2. (Original) The method of claim 1 further comprising the step of adding at least one pigment during a step after the applying step and before the heating step to adjust the base-pigment mixture.

3. (Original) The method of claim 1 further comprising the step of adding at least one base during a step after the applying step and before the heating step to adjust the base-pigment mixture.

4. (Original) The method of claim 1 wherein said mold is a lipstick mold in which the base-pigment mixture is cooled in the lipstick mold to form a lipstick, further comprising:

removing the lipstick from the lipstick mold; and

affixing the lipstick to a lipstick case.

5. (Original) The method of claim 1 wherein the two steps of mixing are conducted on a blending sheet.

6. (Original) The method of claim 1 wherein the steps of the method are conducted while the person waits at the retail establishment.

7. (Currently Amended) A method for custom blending and fabricating lip coloring product to personal specifications of a person of using a kit at a retail establishment, the kit including a mold, a plurality of pigments in ~~shapeless-amorphous form~~bulk form that are free of pre-measured individual units and at least one base, the method comprising the steps of:

receiving a customer demand from the person for a custom blended lip coloring product at the retail establishment;

heating the at least one base;

selecting various pigments from the plurality of differently shaded pigments in ~~shapeless-amorphous form~~ based upon the customer demand;

measuring quantities of selected pigments from said bulk form that are free of pre-measured individual units with a measuring device ~~while the pigments are in the shapeless amorphous form~~;

mixing measured quantities of the pigments with the at least one base; and

cooling the mixed at least one base and pigments in a mold.

8. (Previously Presented) The method of claim 7 wherein the mixing step comprises:

mixing selected quantities of a plurality of measured pigments in accordance with the customer demand to arrive at a pigment mixture;

softening at least one lipstick base via heat such that the lipstick base is suitable for mixing with measured pigments; and thereafter

mixing the pigment mixture with the softened at least one lipstick base to arrive at a base-pigment mixture.

9. (Original) The method of claim 8 further comprising the step of adding and mixing at least one pigment during a step after said mixing step and before the heating step to adjust the base-pigment mixture.

10. (Original) The method of claim 7 wherein said kit further includes a blending sheet, wherein said mixing step is conducted on the blending sheet.

11. (Previously Presented) The method of claim 7 wherein the measuring step is performed with at least one measuring device selected from the group consisting of a graduated blending sheet, a scoop, a spoon, a dropper, a measuring cup, and a metering device.

12. (Original) The method of claim 7 wherein said mold is a lipstick mold in which the base-pigment mixture is cooled in the lipstick mold to form a lipstick, further comprising:  
removing the lipstick from the lipstick mold; and  
affixing the lipstick to a lipstick case.

13. (Original) The method of claim 7 wherein the steps of the method are conducted while the person waits at the retail establishment.

14. (Currently Amended) A method for custom blending and fabricating lip coloring product using a kit at home, the kit including a mold, a plurality of pigments in ~~shapeless-amorphous form~~bulk form that are free of pre-measured individual units and at least one base, the method comprising the steps of:

selecting various pigments from the plurality of differently shaded pigments in ~~shapeless-amorphous form~~;

measuring quantities of selected pigments from said bulk form that are free of pre-measured individual units with a measuring device ~~while the pigments are in shapeless~~  
~~amorphous form~~;

mixing measured quantities of the pigments for lip coloring product with the at least one base, the mixing step being conducted at the home;  
heating the bases and pigments, the heating step being conducted at the home; and  
cooling the bases and pigments in a mold, the cooling step being conducted at the home.

15. (Previously Presented) The method of claim 14 wherein the heating step is conducted with an electrical device typically available at the home and not part of the kit.

16. (Previously Presented) The method of claim 14 wherein the heating step is conducted in a microwave oven.

17. (Previously Presented) The method of claim 14 wherein said mold is a lipstick mold in which the base-pigment mixture is cooled in the lipstick mold to form a lipstick, further comprising:  
removing the lipstick from the lipstick mold; and  
affixing the lipstick to a lipstick case.

18. (Previously Presented) The method of claim 14 wherein said kit further includes a blending sheet, wherein said mixing step is conducted on the blending sheet.

19. (Currently Amended) A method for custom blending and fabricating lip coloring product to personal specifications, the method comprising the steps of:  
selecting various pigments from a plurality of differently shaded pigments in ~~shapeless-amorphous form~~ bulk form that are free of pre-measured individual units;  
measuring quantities of the selected pigments from said bulk form that are free of pre-measured individual units with a measuring device ~~while the selected pigments are in shapeless-amorphous form~~;  
mixing the measured quantities of selected pigments;  
repeating the selecting, measuring and mixing steps until a desired shade of lipstick is achieved;

heating at least one base in a heating vessel to a mixable form;  
adding the measured quantities of lipstick pigments to the at least one base; and  
pouring the mixed pigments and at least one base into a mold.

20. (Previously Presented) The method of Claim 19 wherein the measuring step is performed by pouring the pigments onto a sheet having a plurality of graduated segments of known quantity.

21. (Previously Presented) The method of claim 20 wherein the mixing step is performed using a translucent blending sheet disposed over the graduated sheet, the graduated segments being visible through the blending sheet, the pigments being poured on the blending sheet in quantities measured using the graduated segments, the measured quantities being mixed on the blending sheet.

22. (Previously Presented) The method of claim 19 further including the step of adding additives to the pigments and bases to affect the characteristics of the lipstick, the additives including moisturizers, sunscreens, frosts and fragrances.

23. (Previously Presented) The method of claim 19 wherein said mixing of the measured quantities of pigments is conducted prior to said adding of the measured quantities of pigments to the at least one base.

24. (Previously Presented) The method of claim 19 wherein the mold includes top and bottom clam shell halves, and wherein the method includes the step of removing the top clam shell after the lipstick has hardened to partially reveal the lipstick and facilitate adhesion of a lipstick case to the lipstick.

25. (Previously Presented) The method of claim 19 further including the step of adding additional pigment after said heating and said adding to further tailor the lipstick to the exact specifications of the user.

26. (Currently Amended) A method for custom blending and fabricating lipstick at a retail establishment to personal specifications, the method comprising:

receiving a demand from an individual person for a custom blended lipstick at the retail establishment;

selecting various pigments from a plurality of differently shaded pigments in ~~shapeless-amorphous form~~ bulk form that are free of pre-measured individual units;

measuring quantities of the selected pigments from said bulk form that are free of pre-measured individual units with a measuring device ~~and while the selected pigments are in shapeless-amorphous form~~ in accordance with the demand of the individual person;

selecting at least one base from a plurality of lipstick bases offering a variety of textures and consistencies in accordance with the demand of the individual person;

mixing the measured quantities of lipstick pigments with the at least one selected base;

heating the at least base into mixable form; and

pouring the mixed pigments and at least one base into a mold.

27. (Previously Presented) The method of claim 26 further comprising cooling the lipstick in the mold, and affixing the cooled lipstick to a lipstick case.

28. (Previously Presented) The method of claim 27 wherein the steps of measuring, selecting, adding, heating, pouring, cooling, and affixing are all done at the retail establishment.

29. (Previously Presented) The method of claim 28 further comprising repeating the selecting measuring and mixing steps until the desired shade of the individual person is accomplished according to the demand.

30. (Previously Presented) The method of claim 26 further comprising evaluating the color of the mixture of the pigments and the at least one base, and adjusting the color of the mixture of the at least one base and the pigments by adding an additional quantity of a selected pigment with the at least one base after said heating.

31. (Previously Presented) The method of claim 7 further comprising selecting various bases from a plurality of bases to provide a desired texture and consistency for the lip coloring product, mixing the selected bases with the measured quantities of selected pigments.

32. (Previously Presented) The method of claim 7 further comprising premixing the measured quantities of pigments to arrive at a desired shade and color for the lip coloring product, said premixing being conducted prior to said mixing.

33. (Previously Presented) The method of claim 32 further comprising adding the premixed measured quantities of pigments to said at least one base prior to said heating.

34. (New) The method of claim 7 wherein said measuring is conducted with a graduated blending sheet having a plurality of graduated segments of known quantity.

35. (New) The method of claim 26 wherein said measuring is conducted with a graduated blending sheet having a plurality of graduated segments of known quantity.

36. (New) The method of claim 1 wherein the method is accomplished without counting pellets.

37. (New) The method of claim 7 wherein the method is accomplished without counting pellets.

38. (New) The method of claim 14 wherein the method is accomplished without counting pellets.

39. (New) The method of claim 19 wherein the method is accomplished without counting pellets.

40. (New) The method of claim 26 wherein the method is accomplished without counting pellets.

41. (New) The method of claim 1 further comprising using at least one pigment in powder form in said method.

42. (New) The method of claim 7 further comprising using at least one pigment in powder form in said method.

cl 43. (New) The method of claim 14 further comprising using at least one pigment in powder form in said method.

44. (New) The method of claim 19 further comprising using at least one pigment in powder form in said method.

45. (New) The method of claim 26 further comprising using at least one pigment in powder form in said method.

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*REMARKS*

The Office Action dated March 3, 2003, has been carefully considered. In the Office Action, the Patent Examiner rejected claims 1-20 and 22-33. The Patent Examiner did indicate that claim 21 included allowable subject matter. By way of this amendment, claims 7, 14, 19 and 26 have been amended. New claims 34-45 have been added. A Supplemental IDS is concurrently submitted herewith. Applicant respectfully requests reexamination and reconsideration of the claims in view of the foregoing amendments and the following remarks.

First, turning to the § 112 rejections, the Patent Examiner has objected to the phrase "shapeless amorphous form" asserting that it does not appear to have support in the original disclosure. However, the Patent Examiner does acknowledge that it is a broader generic limitation that includes various forms described in the specification (see e.g. the bottom of page 2 of the Office Action). Although it is respectfully submitted that there is nothing